



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/769,654	01/24/2001	Steve Lemke	PALM-3217.US.P	3467

7590

11/03/2005

WAGNER, MURABITO & HAO LLP
Third Floor
Two North Market Street
San Jose, CA 95113

EXAMINER

FIELDS, COURTNEY D

ART UNIT

PAPER NUMBER

2137

DATE MAILED: 11/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/769,654	Applicant(s) LEMKE, STEVE	
	Examiner Courtney D. Fields	Art Unit 2137	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Arguments

1. Applicant's arguments filed 08 August 2005 have been fully considered but they are not persuasive.
2. Referring to the rejection of claim 1, the Applicant contends and argues that the prior art Janiak et al. does not disclose nor teach powering-up the computer system to a normal operation mode and granting the user access to the computer system. The Examiner respectfully disagrees and asserts that Janiak et al. does disclose the feature of powering-up a computer system to normal operation mode on page 3, Sections 0025 – 0027. The user is granted access to the computer system after verifying identity of the user using biometric data on pages 6-7, Section 0179.
3. Referring to the rejection of claim 1, the Applicant contends and argues that the prior art Maes et al. does not disclose nor teach powering-up the computer system to a normal operation mode and granting the user access to the computer system, if verification of captured biometric data from the user is successful. The Examiner respectfully disagrees and asserts that in response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).
4. Referring to the rejection of claim 12, the Applicant contends and argues that the prior art Janiak et al. does not disclose nor teach a memory device and a processor coupled to the user verification device and to the memory device wherein the processor

receives biometric data and compares the biometric data with the reference template.

The Examiner respectfully disagrees and asserts that Janiak et al. does disclose a memory device and a processor coupled to the memory device on page 2, Section 0021. The processor receives biometric data and compares the data to the stored biometric data on page 3, Section 0026.

5. Referring to the rejection of claims 2 and 11, the Applicant contends and argues that the prior art Haitani does not disclose nor teach capturing biometric data from the user desiring access to the computer system having a user verification device in response to initial interaction by the user with the user verification device, verifying identity of the user using the biometric data, and if the verification of user's identity is successful, powering-up the computer system to a normal operation mode and granting the user access to the computer system. The Examiner respectfully disagrees and asserts that in response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

6. Therefore, the rejection of claims 1-21 are maintained in view of the reasons above and in view of the reasons below.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1,3,4-10,12-19, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Janiak et al. (Pub No. 2002/0089410) in view of Maes et al. (U.S. Patent No. 6,016,476).

Referring to claims 1 and 12, Janiak et al. discloses a method and system of enabling a user to access a computer system comprising the steps of capturing biometric data from the user desiring access to the computer system having a user verification device in response to initial interaction by the user with the user verification device, verifying identity of the user using the biometric data and if verification is successful, powering-up the computer system to a normal operation mode and granting the user access to the computer system on page 2, Section 0021 and page 3, Sections 0028-0052.

However, Janiak et al. does not teach the combination of biometric data captured (thumbprint, a magnet, color, temperature, geometric characteristic). Janiak et al. does not teach the step of pressing, swiping, or touching the user verification device. Maes et al. teaches a combination of biometric data used together to verify the user and the step of pressing, swiping, and touching the user verification device within a portable PDA.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine Janiak et al.'s biometric authentication device and Maes et al. portable PDA method.

As per claim 3, Janiak et al. discloses the claimed limitation wherein comparing the biometric data with a reference template representing stored biometric data of an authorized user on page 6, Section 0179.

As per claims 4 and 13, Janiak et al. discloses the claimed limitation wherein automatically invoking an application program upon entering the normal operation mode on page 3, Section 0026.

As per claims 5 and 14, Janiak et al. discloses the claimed limitation wherein capturing new biometric data from the user using the user verification device during the normal operation mode according to a programmable schedule and verifying identity of the user using the new biometric data to continue access by the user on pages 6 and 7, Section 0179.

As per claims 6 and 15, (Janiak et al. as modified) discloses the claimed limitation wherein the biometric data is one of a thumbprint, a fingerprint, a magnetic characteristic, a color characteristic, a temperature characteristic, a geometric characteristic, and a combination thereof of the user (See Maes et al., Column 10, lines 66-67, Column 11, lines 1-8).

As per claims 7 and 16, Janiak et al. discloses the claimed limitation wherein the user verification device comprising a biometric sensor on page 1, Section 0009, and page 2, Section 0022.

As per claims 8 and 17, (Janiak et al. as modified) discloses the claimed limitation wherein the user initiates the step of pressing the user verification device (See Maes et al., Column 13, lines 6-15).

As per claims 9 and 18, (Janiak et al. as modified) discloses the claimed limitation wherein the user initiates the step of swiping the user verification device (See Maes et al., Column 5, lines 25-35)

As per claims 10 and 19, (Janiak et al. as modified) discloses the claimed limitation wherein the user initiates the step of touching the user verification device (See Maes et al., Column 5, lines 36-53).

As per claim 21, Janiak et al. discloses the claimed limitation wherein the computer system comprises a personal digital assistant on page 2, Section 0021.

4. Claims 2, 11 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Janiak et al. (Pub No. 2002/0089410) and Maes et al. (U.S. Patent No. 6,016,476) as applied to claims 1,3,4-10,12-19 and 21 above, and further in view of Haitani et al. (U.S. Patent No. 5,900,875).

As per claims 1,3-10,19, and 21, Janiak et al. and Maes et al. discloses the invention as substantially claimed. However, Janiak et al. nor Maes et al. explicitly disclose the feature of generating an interrupt to alert the computer system that the user desire access nor a verification device having a button-shape. As per claim 2, Haitani et al. discloses the claimed limitation wherein generating an interrupt to alert the computer system that the user desires access to the computer system in Column 3,

lines 19-29. Therefore it would been obvious to a person having ordinary skill in the art at the time the invention was made to modify Maes et al. biometric system by using Haitani et al.'s PDA system. Haitani et al. provides the user with quick access to desired information. (See Haitani et al., Column 1, lines 36-38)

As per claims 11 and 20, Haitani et al. discloses the claimed limitation wherein the user verification device has a button-shape in Column 2, lines 50-67, Column 3, lines 1-12. Therefore it would been obvious to a person having ordinary skill in the art at the time the invention was made to modify both Janiak et al.'s biometric authentication device and Maes et al. portable PDA method by using Haitani et al.'s palmtop computer system. Haitani et al. provides the user with easy means for navigating the PDA. (See Haitani et al., Column 2, lines 37-44)

Conclusion

2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Courtney D. Fields whose telephone number is 571-272-3871. The examiner can normally be reached on Mon - Thurs. 6:00 - 4:00 pm; off every Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on 571-272-3865. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

COF

cdf
October 31, 2005

E. Moise
EMMANUEL L. MOISE
SUPERVISORY PATENT EXAMINER